

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Request of the Staff of)
the Missouri Public Service Commission)
for an Order Directing the General)
Counsel to Petition the Circuit Court of)
Cole County for the Appointment of a)
Receiver for Rogue Creek Utilities, Inc.,)
and for the Appointment of an Interim)
Receiver.)

Case No. _____

**APPLICATION FOR AN ORDER DIRECTING THE GENERAL COUNSEL
TO PETITION THE CIRCUIT COURT OF COLE COUNTY
FOR THE APPOINTMENT OF A RECEIVER
FOR ROGUE CREEK UTILITIES, INC.,
AND APPOINTING AN INTERIM RECEIVER**

COMES NOW the Staff of the Missouri Public Service Commission and, for its Application for an Order Directing the General Counsel to Petition the Circuit Court of Cole County for the Appointment of a Receiver for Rogue Creek Utilities, Inc., and Appointing an Interim Receiver, states to the Missouri Public Service Commission as follows:

1. Rogue Creek Utilities, Inc. ("Rogue Creek" or "Company") is a Missouri general business corporation, which was administratively dissolved effective December 30, 2004 and is not in good standing. A true copy of the certificate of the Missouri Secretary of State is attached hereto as Exhibit A.

2. William J. Rummel is the sole officer and director of Rogue Creek, and owns all of Rogue Creek's outstanding stock. A true copy of the Company's most recent Annual Registration Report, which was filed with the Missouri Secretary of State on August 25, 2003, is attached hereto as Exhibit B and incorporated herein by reference. Exhibit B shows that William J. Rummel is the sole officer and director of the Company. Also attached hereto, as Exhibit C, is

a true copy of the Affidavit of William J. Rummel, wherein Mr. Rummel states that he is the sole officer and director of Rogue Creek and that he owns all of the Company's outstanding stock.

3. Rogue Creek is a "public utility," a "water corporation," and a "sewer corporation," as those terms are defined in Section 386.020.¹ Rogue Creek regularly provides water and sewer service to fewer than eight thousand customers. According to available Commission records, Rogue Creek's principal place of business or corporate headquarters of record is in Washington County, Missouri, at: 10019 Simmental Lane, Potosi, MO 63664.

4. The Company has the duty, pursuant to Section 393.130, to provide safe and adequate service to its customers. Section 393.130.1 provides, in part, as follows:

Every gas corporation, every electrical corporation, every water corporation, and every sewer corporation shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable.

5. Section 393.145.1 authorizes the Commission to seek the appointment of a receiver for a water corporation or a sewer corporation in certain circumstances. It provides in full as follows:

If, after hearing, the commission determines that any sewer or water corporation that regularly provides service to eight thousand or fewer customer connections is unable or unwilling to provide safe and adequate service, has been actually or effectively abandoned by its owners, or has defaulted on a bond, note or loan issued or guaranteed by any department, office, commission, board, authority or other unit of state government, the commission may petition the circuit court for an order attaching the assets of the utility and placing the utility under the control and responsibility of a receiver. The venue for such cases shall, at the option of the commission, be in the circuit court of Cole County or in the circuit court of the county in which the utility company has its principal place of business.

6. William J. Rummel, the sole officer, director and shareholder of the Company is suffering from the effects of Alzheimer's Disease, in its early stages. His physical and mental limitations make it increasingly difficult for him to continue to manage Rogue Creek, and he is

¹ All statutory citations are to RSMo 2000, as currently supplemented.

no longer willing or able to devote a significant amount of time to the management of Rogue Creek. Mr. Rummel wants Rogue Creek to continue to provide safe and adequate water and sewer service to its customers, but does not wish to continue to own and operate the utility. Mr. Rummel has not identified any persons or entities available and ready to acquire and operate the assets, and he therefore requests that interim and permanent receivers be appointed for the Company, so that the assets of the Company can be sold. See the Affidavit of Mr. Rummel, which is attached hereto as Exhibit C.

7. Mr. Rummel capably operated Rogue Creek for many years, beginning in 1976, and the Company has provided safe and adequate water and sewer service to its customers. In recent years, Mr. Rummel has recognized that the effects of aging have made it difficult for him to personally provide the high quality of water and sewer service that he wants his customers to enjoy. He has therefore responsibly handed the day-to-day operation of the Company to Rita and Joe Coleman. He has now decided to consent to the appointment of interim and permanent receivers, to insure that Rogue Creek's customers continue to receive safe and adequate water and sewer service.

8. Rita and Joe Coleman have served well in their capacity as managers of Rogue Creek's facilities and operations. However, they do not have the authority to sell and transfer the Company's assets to a third party, and they lack the authority to take other actions that only the owners, officers, or directors of the Company can take.

9. The Company's conduct satisfies one of the statutory bases for the appointment of a receiver, in that Mr. Rummel, the sole officer, director, and shareholder of the Company, is unable to continue to devote sufficient time to operate the Company, and therefore the Company is now, or will soon be, unable to continue to provide safe and adequate service to its customers.

10. If the Commission determines, after hearing, that Rogue Creek is a sewer or water corporation that regularly provides service to 8,000 or fewer customers, and that it is unable to provide safe and adequate service to its customers, Section 393.145.1 authorizes the Commission to file a petition the Circuit Court of Cole County or the Circuit Court of Washington County for an order attaching the assets of the Company and placing the Company under the control and responsibility of a receiver.

11. If the Commission files a petition in the circuit court for the appointment of a receiver for Rogue Creek, Section 393.145.7 authorizes the Commission to request that the court find that control of, and responsibility for, the Company should not, in the best interests of its customers, be returned to its owner, and authorizes the circuit court to direct the receiver to transfer by sale or liquidate Rogue Creek's assets in the manner provided by law.

12. If the Commission orders its general counsel to petition the circuit court for the appointment of a receiver for Rogue Creek, Section 393.145.2 authorizes the Commission to appoint an interim receiver for the Company, who shall be compensated in an amount to be determined by the Commission, and who shall serve until the circuit court determines whether to grant the Commission's request for the appointment of a receiver.

13. Rita Coleman is a responsible person with knowledge in the operation of utilities generally, and with experience and knowledge regarding the operations of Rogue Creek in particular. The Staff recommends that the Commission appoint Rita Coleman as the interim receiver for Rogue Creek. The Staff further recommends that the Commission authorize the interim receiver to be compensated from Rogue Creek's assets in an amount to be determined by the Commission upon the recommendation of the Staff. The Staff also believes that Rita Coleman would be available to act as a manager for a permanent receiver, if such receiver so desires.

WHEREFORE, the Staff prays that the Commission issue its order finding that Rogue Creek is a water and sewer utility that regularly provides service to fewer than 8,000 customers; finding that Rogue Creek is now, or will soon be, unable to provide safe and adequate service to its customers; ordering the general counsel of the Commission to petition the Circuit Court of Cole County for an order attaching the assets of the Company and placing the Company under the control and responsibility of a receiver and for an order directing the appointed receiver to transfer by sale or to liquidate the assets of the Company in the manner provided by law; appointing Rita Coleman as the interim receiver of the Company pursuant to Section 393.145.2; and authorizing the interim receiver to be compensated from Rogue Creek's assets in an amount to be determined by the Commission.

Respectfully submitted,

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)
keith.krueger@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 21st day of March, 2007.

/s/ Keith R. Krueger

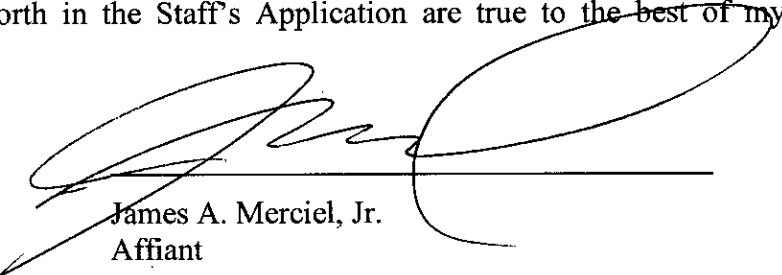
**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

STATE OF MISSOURI)
)
COUNTY OF COLE)

AFFIDAVIT OF JAMES A. MERCIEL, JR.

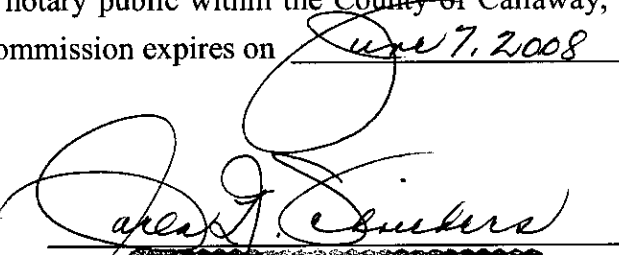
James A. Merciel, Jr., of lawful age, on his oath states:

1. I am employed by the Missouri Public Service Commission as Assistant Manager – Engineering.
2. This affidavit supports the Staff's APPLICATION FOR AN ORDER DIRECTING THE GENERAL COUNSEL TO PETITION THE CIRCUIT COURT OF COLE COUNTY FOR THE APPOINTMENT OF A RECEIVER FOR ROGUE CREEK UTILITIES, INC., AND APPOINTING AN INTERIM RECEIVER (Application).
3. I participated in the preparation of the Staff's Application, I have knowledge of the matters set forth in the Application.
4. The matters set forth in the Staff's Application are true to the best of my knowledge and belief.


James A. Merciel, Jr.
Affiant

Subscribed and affirmed before me this 20th day of March 2007. I am commissioned as a notary public within the County of Callaway, State of Missouri, and my commission expires on June 7, 2008.




CARLA K. SCHNIEDERS
Notary Public - Notary Seal
State of Missouri
County of Cole
My Commission Exp. 06/07/2008

**ADMINISTRATIVE DISSOLUTION
OR REVOCATION FOR A
FOR-PROFIT CORPORATION**

00173219
ROGUE CREEK UTILITIES, INC.
WILLIAM J. RUMMEL
101 WINDMILL DRIVE
POTOSI, MO 63664

December 30, 2004

ROGUE CREEK UTILITIES, INC.
00173219

The above corporation has failed to comply with Section 351.484, 351.525, or 351.598 RSMo, by:

Failure to file a correct and current annual report

Therefore, the above corporation stands administratively dissolved or revoked under the provisions of Section 351.486 or Section 351.602, RSMo, as of December 30, 2004.

NOW, THEREFORE, I, Matt Blunt, Secretary of State, do hereby declare the above corporation administratively dissolved or revoked by this state, subject to rescission as in these acts provided.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix my seal this, the 30th day of December, 2004.



Matt Blunt
MATT BLUNT
SECRETARY OF STATE

Exhibit A

2003
Matt Blunt Secretary of State
ANNUAL REGISTRATION REPORT
(Business)

File Number: 200325940452
Charter # 00173219
Date Filed: 08/25/2003 11:28 AM
Matt Blunt
Secretary of State

THIS REPORT IS DUE BY: 09/15/2003

00173219

ROGUE CREEK UTILITIES, INC.

WILLIAM J. RUMMEL
101 WINDMILL DRIVE
POTOSI, MO 63664

CURRENT FISCAL YEAR IS:	
YEAR 2003	MONTH/DAY 06/01
CHANGE FISCAL YEAR TO:	
CALENDAR	BEGIN MONTH/DAY
<input type="checkbox"/>	___/___


2	PRINCIPAL PLACE OF BUSINESS OR CORPORATE HEADQUARTERS:	101 Windmill Dr.
		Potosi, Missouri 63664
	CITY/STATE	ZIP

3	If changing the registered agent and/or registered office address, please check the appropriate box(es) and fill in the necessary information.	
	<input type="checkbox"/>	The new registered agent
	IF CHANGING THE REGISTERED AGENT, AN ORIGINAL WRITTEN CONSENT FROM THE NEW REGISTERED AGENT MUST BE ATTACHED AND FILED WITH THIS REGISTRATION REPORT.	
<input type="checkbox"/>	The new registered office address	
Must be a Missouri address, PO Box alone is not acceptable. This section is not applicable for Banks, Trusts and Foreign Insurance.		

OFFICERS		BOARD OF DIRECTORS	
NAME AND PHYSICAL ADDRESS (P.O. BOX ALONE NOT ACCEPTABLE). <u>PRESIDENT AND SECRETARY REQUIRED.</u>		NAME AND PHYSICAL ADDRESS (P.O. BOX ALONE NOT ACCEPTABLE). <u>AT LEAST ONE DIRECTOR IS REQUIRED.</u>	
4	PRES <u>WILLIAM J. RUMMEL</u>	NAME <u>WILLIAM J. RUMMEL</u>	
	STREET/RT <u>101 Windmill Drive</u>	STREET/RT <u>101 Windmill Dr.</u>	
	CITY/STATE/ZIP <u>Potosi, MO 63664</u>	CITY/STATE/ZIP <u>Potosi, MO 63664</u>	
	V-PRES _____	NAME _____	
	STREET/RT _____	STREET/RT _____	
	CITY/STATE/ZIP _____	CITY/STATE/ZIP _____	
	SEC'Y <u>WILLIAM J. RUMMEL</u>	NAME _____	
STREET/RT <u>101 Windmill Dr.</u>	STREET/RT _____		
CITY/STATE/ZIP <u>Potosi, MO 63664</u>	CITY/STATE/ZIP _____		
TREAS _____	NAME _____		
STREET/RT _____	STREET/RT _____		
CITY/STATE/ZIP _____	CITY/STATE/ZIP _____		
NAMES AND ADDRESSES OF ALL OTHER OFFICERS AND DIRECTORS ARE ATTACHED			

5	The undersigned understands that false statements made in this report are punishable for the crime of making a false declaration under Section 575.060 RSMo 1986	
	OFFICER SIGN HERE >>>	<u>William J. Rummel</u>
Original signature of officer listed above required. Photocopy or stamped signature not acceptable.		

INFORMATION PROVIDED IS SUBJECT TO PUBLIC DISCLOSURE

6	ATTACHED IS THE REGISTRATION FEE		FOR OFFICIAL USE ONLY Check #: <u>1160</u> Amount: <u>\$45.00</u> Filer's Initials: <u>WJR</u> 01 AG AG
	<input checked="" type="checkbox"/> \$45.00 If filed on or before 10 days after filing date	State of Missouri	
	<input type="checkbox"/> \$60.00 If within 30 days after filing date	Annual Report - General Business 1 Page(s)	
	<input type="checkbox"/> \$75.00 If within 60 days after filing date		
<input type="checkbox"/> \$90.00 If within 90 days after filing date			
CORPORATE E-MAIL ADDRESS		T0325814558	

REQUIRED INFORMATION MUST BE COMPLETE OR THE REGISTRATION REPORT WILL BE REJECTED
MAKE CHECK PAYABLE TO SECRETARY OF STATE
RETURN COMPLETED REGISTRATION REPORT AND PAYMENT TO THE SECRETARY OF STATE - P.O. BOX 1366, JEFFERSON CITY, MO 65102

Exhibit B

AFFIDAVIT OF WILLIAM J. RUMMEL

RECEIVED

NOV 08 2006

STATE OF MISSOURI)

COUNTY OF Washington)

UTILITY OPERATIONS
DIVISION

COMES NOW William J. Rummel and, being duly sworn on his oath, deposes and states:

1. I am the owner of all of the outstanding stock of Rogue Creek Utilities, Inc. (RCU), an administratively dissolved Missouri corporation. I have owned all of the outstanding stock of RCU from the time of its incorporation on December 9, 1974 until the present time. I am also the sole officer and director of RCU.

2. RCU is a public utility regulated by the Missouri Public Service Commission, and is a "water corporation" and "sewer corporation," as defined by Section 386.020, RSMo. RCU holds certificates of convenience and necessity from the Public Service Commission to provide water and sewer service, and currently provides service to approximately 115 water customers and 100 sewer customers in its certificated service territory near Potosi, Missouri.

3. RCU has provided safe and adequate service to its customers from the date of the granting of its certificates of convenience and necessity in 1976, which were granted in Case No.

18,758; to the present, with the exception of a time between November 1, 1983 and October 6, 1988 when the assets were sold, as authorized in Case No. WM-83-328, and subsequently re-acquired by foreclosure. RCU continues to provide safe and adequate service to its customers.

4. I have been, and continue to be, responsible for the overall management of RCU. However, earlier this year I turned over the responsibility for the day-to-day operation of RCU to Rita Coleman, who has capably worked for RCU or has been involved in its operations for the past six (6) years.

Exhibit C

83, - per Connie Sayers

5. I am 84 years old, and my doctors have informed me that I am in the early stages of Alzheimer's Disease. My physical and mental limitations make it increasingly difficult for me to continue to manage RCU, and I am no longer willing to devote a significant amount of time to the management of RCU.

6. I want to insure that the customers of RCU continue to receive safe and adequate water and sewer service, either through new ownership and management of RCU, or through transfer of the assets of RCU to another entity.

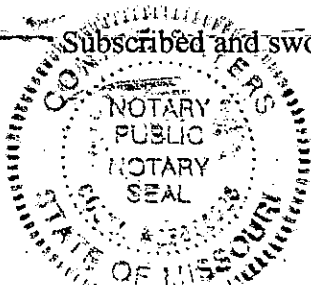
7. The members of my family do not wish to continue to operate RCU, and I have not been able to identify any other person or entity that wants to buy the stock or assets of RCU.

8. I recommend to the Missouri Public Service Commission that Rita Coleman be named as the interim receiver for RCU, to manage and operate the utility until a receiver can be appointed for RCU pursuant to the provisions of Section 393.145, RSMo.

Further Affiant sayeth not.

William J. Rummel
William J. Rummel

Subscribed and sworn to before me this 30 day of October 2006.



Connie Sayers
Notary Public

My Commission Expires:

February 27, 2009